

OGC HAS REVIEWED. :

TAB

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TAB A

1. The principal deterrent to the appointment of part-time employees in the Agency has been the security problem involved in withholding Social Security deductions, since such individuals are not usually covered by the Civil Service Retirement Act. The Social Security Act, as amended, requires that deductions be withheld for temporary employees. These taxes must be reported quarterly to the Treasury Department accompanied by a remittance for the total amount due. Deductions are forwarded with an indication of the employer, the employee and the employee's Social Security number. Consequently, there has been a general reluctance to employ personnel under any arrangement requiring Social Security deductions, with the exception of the "summer only" program referred to.

2. However, the Office of the General Counsel more recently has issued an opinion which states as follows:

Section 1426 of Title 26 of U.S.C. defines the term "employment" for purposes of the Social Security Act as excluding services performed in the employ of the United States if such service is performed by an individual as an employee who is excluded by Executive Order from the operation of the Civil Service Retirement Act of 1930 because he is paid on a contract or fee basis. We are of the opinion that the words "contract or fee basis" are sufficiently broad to include all types of employment contracts entered into by this Agency. This interpretation results in the conclusion that Social Security deductions should not be made for such individuals.
(Underscoring supplied)

3. Thus Social Security coverage extends to temporary employees employed in the regular manner, but it does not apply to personnel who are paid on a contract or fee basis regardless of the nature of their employment relationship with the Agency. Therefore, it appears that this Agency could exclude all part-time and WAE personnel from Social Security benefits by obtaining their services on contract except in those circumstances where Social Security deductions are desirable for cover purposes.

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